

Vincent, Margaret

From: Gregorek, Sarah
Sent: Thursday, April 11, 2019 1:55 PM
To: Hochanadel, Paul
Subject: FW: questions re: autopsy findings

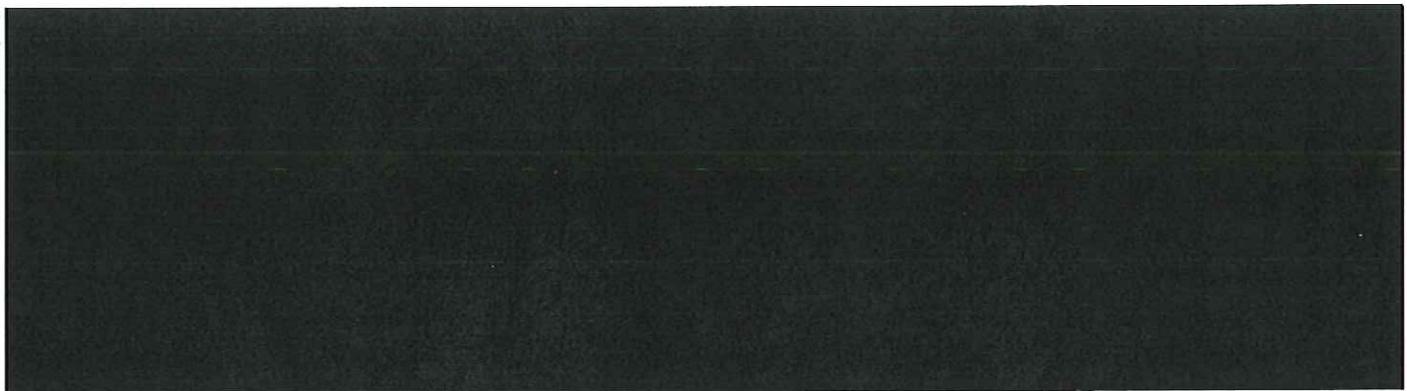
Records request. This is the only correspondence between Dr. Levine and the Burlington Police. Dr. Levine did not respond via email but called Chief delPozo.

From: del Pozo, Brandon
Sent: Wednesday, April 10, 2019 8:52:11 AM (UTC-05:00) Eastern Time (US & Canada)
To: Levine, Mark
Cc: Redell, Jordan
Subject: questions re: autopsy findings

Dear Dr. Levine,

Thank you for finding the time to talk soon. This email outlines the concerns that led us to ask to talk to you.

Dr. Shapiro has concluded in his report of autopsy that he has been unable to determine the cause of Douglas Kilburn's death, concluding that could have been from one of many possible causes, the actual combination of which remains unknown. This is from his report:



I have conferred with the mayor and we are in agreement in requesting clarification of these findings before they are made public. It does not appear to be the case, by any means, that a standard of either beyond a reasonable doubt, or even more likely than not, was met in the determining Douglas Kilburn's. it is also not clear from the report how the "but for" standard it met. This is especially so since the ME has not been able to go as far as to determine the decedent's cause of death.

The standard for ruling a death a homicide, based on the City of Burlington's conferral with experienced, supervising medical examiners in New York and California, is that the manner of a person's death is a homicide because it is beyond a reasonable doubt that but for the homicidal acts of a person, the deceased would not have died due to the causes by which he is determined to have died.

Whether the person committed the acts or not, who that person was, and whether the acts were a crime, is understood to be a legal matter. The medical question is whether or not it is beyond a reasonable doubt that but for some act by a person, the decedent would not have died from the causes by which he died.

Again, we understand that unlike cases of accidental deaths, natural deaths, and suicides, which are "more likely than not" or "preponderance of the evidence" cases, the standard of belief in the practice of medical examiners is "beyond a reasonable doubt." Our concern is that the report of autopsy does not support a conclusion of homicide based on any of these standards.

In other words, it does not seem possible to rule a death a homicide by either standard of proof in the medical profession--either the one used as a standard for homicides, or the lesser one--if one cannot determine why a person died.

The need to clarify this is urgent and acute, because it will bear greatly on the career and life of a police officer who was attacked by the decedent as the decedent blocked traffic in the Ambulance bay of the UVMMC Emergency Department. It will also cause people to impugn the quality of care offered by Vermont's flagship hospital, which treated and released the decedent after caring for him overnight. It will also imply that the police used homicidal violence on the decedent, regardless of the legal outcomes.

If the ruling on manner of death is not to be amended, we believe we need an account of the rationale, the standards of proof used in formulating beliefs about this manner in the case at hand and in Vermont generally, and why they were satisfied in this case, and why they resulted in the classification of Mr. Kilburn's death as a homicide.

The Vermont State Police are planning on sending out a press release that Kilburn's death was a homicide in a few hours.

Sincerely,
Brandon del Pozo
Chief of Police
Burlington, Vermont

@OneNorthAvenue

Please note that this communication and any response to it will be maintained as a public record and may be subject to disclosure under the Vermont Public Records Act.